

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

LORI WILSON, individually, and on behalf  
of all others similarly situated,

Plaintiffs,

Case No. 1:20-cv-565

v.

Hon. Hala Y. Jarbou

PECKHAM, INC.,

Defendant.

**ORDER**

Plaintiff Lori Wilson seeks to bring a class action against Defendant Peckham, Inc., on claims of various violations of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (First Am. Compl., ECF No. 31.) Peckham moved to dismiss for failure to state a claim under Rule 12(b)(6) of the Federal Rules of Civil Procedure. (ECF No. 38.)

Peckham attached to its motion exhibits purporting to show when Wilson arrived at the office and formally punched in to/out of work (ECF No. 39-1), as well as many “missing punch forms” filled out by Wilson, which ensure that she can record and be compensated for work not captured by Peckham’s timekeeping program (ECF No. 39-2). A third exhibit shows that Peckham employees were instructed not to shut down their computers at the end of their shift. (ECF No. 39-3.)

Wilson argues that the Court may not consider these exhibits, as they fall outside the pleadings and are not central to her claims. (Pl.’s Resp., ECF No. 45, PageID.1304.) In the alternative, she requests the Court invoke Rule 12(d) and convert Peckham’s motion to a motion for summary judgment, and allow her to attach exhibits of her own. This the Court will do. Wilson

will be given 28 days to file a new response, with exhibits, to Peckham's motion. Peckham will be given 14 days to file a reply addressing Wilson's new response.

Accordingly,

**IT IS ORDERED** that Defendant's motion to dismiss (ECF No. 38) will be treated as a motion for summary judgment.

**IT IS FURTHER ORDERED** that Plaintiff may file a response to Defendant's motion within 28 days of the date of this Order.

**IT IS FURTHER ORDERED** that Defendant may file a reply within 14 days of the date that Plaintiff files her response.

Dated: April 15, 2021

/s/ Hala Y. Jarbou  
HALA Y. JARBOU  
UNITED STATES DISTRICT JUDGE